

M. ROBERT KESTENBAUM, LLC  
PATENT AND TRADEMARK MATTERS

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## FACSIMILE TRANSMITTAL SHEET

TO:	FROM:
Office of Petitions	M. Robert Kestenbaum
COMPANY:	DATE:
Commissioner for Patents	07/09/2008
FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER:
571-273-8300	8
PHONE NUMBER:	SENDER'S REFERENCE NUMBER:
(571) 272-3282	(H)01ICP0235USP
RE:	YOUR REFERENCE NUMBER:
Request to Reconsider Petition to Withdraw the Holding of Abandonment	09/869,550

## NOTES/COMMENTS:

Attention: Petitions Office

To Whom It May Concern:

This pertains to the Decision mailed on 05/19/2008 (two page copy included herewith).

I am faxing a Request to Reconsider the Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181 submitted on 04/30/2008, and this request to reconsider the decision of 05/19/2008 should receive expedited treatment.

Please expedite granting withdrawing the holding of abandonment and refer the Amendment after Final Action and RCE filed on 11-3-2005 to be entered and examined by the Examiner.

Thank you for considering this submission and deciding on this petition to reconsider the decision of 05/19/2008 as quickly as possible.

Sincerely,



M. Robert Kestenbaum  
Reg. No. 20,430

11011 BERMUDA DUNES NE  
ALBUQUERQUE, NEW MEXICO USA 87111  
PHONE (505) 323-0771  
FAX (505) 323-0865

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## UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
www.uspto.gov

M Robert Kestenbaum  
11011 Bermuda Dunes NE  
Albuquerque NM 87111

**COPY MAILED**

MAY 19 2008

**OFFICE OF PETITIONS**

In re Application of  
Jan Trebesius  
Application No. 09/869,550  
Filed: January 8, 2002  
Attorney Dkt. No: (H) 011CP0235USP

ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed April 30, 2008. Petitioner has also filed a request to expedite the petition under 37 CFR 1.182.

The petition to withdraw the holding of abandonment is **Dismissed**.

The petition for expedited treatment under 37 CFR 1.182 is **Granted**.

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

This above-identified application was held abandoned for failure to timely file a response to a final Office Action which was mailed on May 3, 2005. The final Office Action set a three (3) month shortened statutory period for reply. A reply in the form of an RCE, amendment, abstract, specification, request for three month extension of time and a credit card authorization was submitted. A Notice of Requiring Excess Claim Fees was mailed on November 30, 2005. Accordingly, this application became abandoned on November 4, 2005. A Notice of Abandonment was mailed on September 20, 2007.

Petitioner asserts that a reply to the final Office Action was timely submitted on November 3, 2005. Petitioner maintains that a general authorization to charge deposit account 11-0665 was submitted on filing. Thus petitioner maintains the \$10.00 shortage should have been charged to the deposit account. Petitioner has provided evidence that \$10.00 was present in the deposit account in November 2005.

Application No. 09/869,550

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Although the evidence presented demonstrates a reply was timely submitted, the submission of the petition to withdraw the holding of abandonment is untimely. 37 CFR 1.181(f) provides that, inter alia, except as otherwise provided, any petition not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely.

Petitioner may wish to provide a petition to revive under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

By facsimile:

(571) 273-8300

By delivery service:  
(FedEx, UPS, DHL, etc.)

U.S. Patent and Trademark Office  
Customer Service Window,  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.



Charlema R. Grant  
Petitions Attorney  
Office of Petitions

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Re: US Patent Application 09/869,550  
Filed January 8, 2002  
Title Online Ordering System, in Particular for Food Outlets, and Method for  
Operating an Online Ordering System of this Type  
Applicant Trebesius  
Art Unit 3625  
Examiner Marissa T. Thein  
Phone 571 272 6764  
Attorney Docket (H) 01ICP0235USP

Mail Stop Office of Petitions  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

**Petition to Reconsider Withdrawing the Holding of Abandonment under 37 CFR  
1.181**

**Attention: Office of Petitions: This communication is mailed in response to the  
decision from the Office of Petitions mailed May 19, 2008, and the petition for  
expedited treatment under 37 CFR 1.182 was granted. Consequently, this Petition  
to Reconsider Withdrawing the Holding of Abandonment should receive expedited  
treatment.**

To Whom it May Concern:

The Decision mailed on May 19, 2008 states that the evidence presented  
demonstrates a reply was timely submitted, but the submission of the petition to withdraw  
the holding of abandonment was untimely, since it was not filed within 2 months of the  
mail date of the notice of abandonment, which was mailed on September 20, 2007.

When Applicant filed the Petition to Withdraw the Holding of Abandonment, the  
focus of the Petition centered on the fact that the present patent application was wrongly  
abandoned due to USPTO error, as a response was timely filed and the USPTO failed to

Trebesius (H)01ICP0235USP US Patent Application 09/869,550  
Request to Reconsider the Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181  
submitted by facsimile on 07/09/2008, fax number 571-273-8300 with certification

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charge the funds present in the deposit account for a \$10 insufficiency, in spite of a general authorization to charge the deposit account being present in the application file. Given Applicant's attention to that focus, Applicant did not state the reason for the timing of the submission of the Petition to Withdraw the Holding of Abandonment, which was filed on April 30, 2008. (The Notice of Abandonment was mailed on September 20, 2007). In actuality, the Petition to Withdraw the Holding of Abandonment was submitted thirty days after the Notice of Abandonment was received by Applicant's attorney's office. The address for Applicant's attorney's office is 11011 Bermuda Dunes NE, Albuquerque, NM 87111. The Notice of Abandonment was delivered to 11001 Bermuda Dunes NE, Albuquerque, NM 87111. The occupants of that address (11001) are rarely present at the address (it is common for there to be nobody present at the address for months at a time). Applicant has been unable to obtain accurate contact information for the occupants of the above address when they are absent from their Albuquerque address. When a resident of 11001 Bermuda Dunes NE was present on the week-end of March 28-30, 2008, they noted that several pieces of mail intended for 11011 Bermuda Dunes NE had been inappropriately delivered to their address. The residents had noted that the mail included some "important" mail, and that the mail included a bank statement and mail from the USPTO. The pieces of mail were brought to the correct address (Applicant's attorney's address) on March 30, 2008, and one of the pieces of mail was the Notice of Abandonment for the present application mailed on September 20, 2007. Applicant's attorney's office researched the abandonment, and determined that the case was inappropriately abandoned. The Petition to Withdraw the Holding of Abandonment was faxed to the USPTO on April 30, 2008.

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The reason for the timing of the present Petition to Reconsider Withdrawing the Holding of Abandonment is that it was learned that the occupants of 11001 Bermuda Dunes NE were to be present at their residence from July 4, 2008 through July 7, 2008. It was hoped that Applicant's attorney could obtain an affidavit from the residents at 11001 Bermuda Dunes NE supporting that they had brought the mail intended for 11011 Bermuda Dunes NE to the correct address on March 30, 2008. However, the occupants of 11001 Bermuda Dunes NE did not return for the 4<sup>th</sup> of July week-end. Hence, this request to reconsider the Petition to Withdraw the Holding of Abandonment is submitted without an affidavit from the residents of 11001 Bermuda Dunes NE. Given there is no affidavit available, Applicant's attorney hereby declares that, based on his own knowledge and belief, the Notice of Abandonment was received by his office on March 30, 2008, and the Petition to Withdraw the Holding of Abandonment was submitted within two months of receipt of the Notice of Abandonment.

It is respectfully requested that the Petition to Withdraw the Holding of Abandonment be reconsidered and that the case be revived, the Amendment after Final Action with RCE (submitted 11/3/2005) be entered and the examination continue. Further consideration and allowance of the claims is respectfully requested.

Applicant respectfully requests that this Request to Reconsider the Petition to Withdraw the Holding of Abandonment receive a Decision as quickly as possible, and that the case be forwarded to the Examiner to enter and review the Amendment After Final Action and RCE as soon as possible. Thank you in advance for your consideration.

Trebesius (H)01ICP0235USP US Patent Application 09/869,550  
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submitted by facsimile on 07/09/2008, fax number 571-273-8300 with certification

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If this request to reconsider the Petition to Withdraw the Holding of Abandonment is not granted, it is respectfully requested that deposit account 11-0665 be charged for the small entity fee (\$770) for a Petition to Revive an Unintentionally Abandoned Application. A duplicate of this page is included for this purpose. Applicant's attorney declares that the entire period of abandonment was unintentional.

Respectfully submitted,



M. Robert Kestenbaum  
Reg. No. 20,430  
11011 Bermuda Dunes NE  
Albuquerque, New Mexico 87111  
Phone (505) 323-0771  
Fax (505) 323-0865

I hereby certify this correspondence is being submitted by facsimile transmission to Commissioner for Patents, Mail Stop Office of Petitions, fax number (571) 273 8300, on 07/09/2008.



M. Robert Kestenbaum

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I hereby certify this correspondence is being submitted by facsimile transmission to Commissioner for Patents, Mail Stop Office of Petitions, fax number (571) 273 8300, on 07/09/2008.



M. Robert Kestenbaum



# Transaction List

Search by

☐ Accounting Date:  Operator ID:

(MMDDYY)

Accounting Date



☒ Name/Number:

Starts:

Ends:

☐ Attny Docket No:

☐ Deposit Account No.:

Accounting Date	Operator ID	Seq. No.	Txn Src	Fee Code	St	Amount	Name/Number
05/01/2008	PCHOMP	34	SALE	1462	A	400.00	09869550
11/04/2005	TLO111	17	SALE	2622	A	115.00	09869550
11/04/2005	TLO111	16	SALE	2253	A	510.00	09869550
11/04/2005	TLO111	15	SALE	2801	A	395.00	09869550
01/24/2005	BONNER	16	SALE	1999	A	55.00	09869550
01/11/2002	LLANDGRA	207	SALE	156	A	130.00	09869550
01/11/2002	LLANDGRA	206	SALE	254	A	65.00	09869550
07/05/2001	LLANDGRA	160	SALE	971	A	430.00	09869550



Adjustment Detail

Authorization Detail

